



MAY 22 2006

PTO/SB/33 (07-05)

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## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

BEAS-01077US3

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on May 19, 2006Signature Teri MuirTyped or printed name Teri Muir

Application Number

09/975,587

Filed

10/11/2001

First Named Inventor

Jacobs

Art Unit

2155

Examiner

Alicia Baturay

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

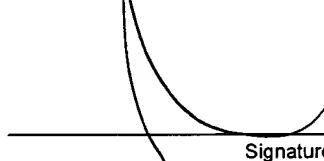
The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

Review to focus on rejections and arguments in previous response dated April 27, 2006.

I am the

applicant/inventor.  
 assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)  
 attorney or agent of record.  
Registration number \_\_\_\_\_  
 attorney or agent acting under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34 36,226



Signature  
Joseph P. O'Malley

Typed or printed name

415-362-3800

Telephone number

May 19, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below\*.

\*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Jacobs et al.

Appln. No.: 09/975,587

Confirm. No.: 8688

Filed: October 11, 2001

Title: Layered Architecture for Data Replication

### PATENT APPLICATION

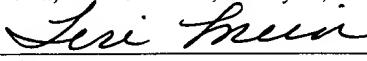
Art Unit: 2155

Examiner: Alicia Baturay

**Customer No. 23910**

### **CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8**

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\_\_\_\_\_  
Teri Muir  
Signature Date: May 19, 2006

(Signature)

### **PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This request is made in reply to the Advisory Action dated May 16, 2006 and is submitted concurrently with a Notice of Appeal.

The requested Review is to focus on rejections and arguments in the previous response dated April 27, 2006.

Claims 1-51 were pending in the Application prior to the outstanding Office Action. In the Office Action, the Examiner rejected claims 1-51.

Claims 1-5, 7-20, and 24-51 are rejected under 35 U.S.C. 102(b) as being anticipated by Gehani et al. U.S. Patent 5,765,171.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gerhani and further in view of Mosher et al., U.S. Patent 6,785,696.

Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerhani and further in view of Fiske U.S. Patent 6,324,692. The Applicant respectfully traverses these rejections.

The Gerhani et al., does not describe a system with a master user layer, master service layer, slave service layer and slave user layer as claimed in claim 1. The use of two layers at each side allows for abstraction of the services. The user layer corresponds to, but is not the same as, a user. As shown by claim 1 and by figures 4 and 5 of the present invention, the user layer is not a user but is software that interacts with other layers. For this reason, claims 1, 36, 40 and their dependent claims 2-35, and 37-38 are believed to be allowable.

Claims 41, and 46-51 include a master server layer and slave service layer. Such a limitation is not shown or suggested in the Gerhani reference. Claims 42-45 are dependent upon claim 41 and for that reason are believed to be allowable.

For the above discussed reasons, claims 1-51 are believed to be allowable and such is respectfully requested.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this Preliminary Amendment.

Respectfully submitted,

Date: May 19, 2006

By:

  
Joseph P. O'Malley  
Reg. No. 36,226

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